

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY RAMSEY

CIVIL ACTION

v.

TROOPER JAMES HARLEY

NO. 00-3909

ORDER AND MEMORANDUM

AND NOW, this 8<sup>th</sup> day of March, 2002, upon consideration of the defendant James Harley's Motion for Summary Judgment (Docket No. 11), the plaintiff's response thereto, and the defendant's reply, IT IS HEREBY ORDERED that the motion is GRANTED, for the reasons stated below. Judgment is entered in favor of the defendant, James Harley, and against the plaintiff, Anthony Ramsey.

The only remaining count in this case is under section 1983, alleging that Pennsylvania State Trooper James Harley ("Harley") used excessive force in the course of arresting Anthony Ramsey ("Ramsey") in violation of the Fourth Amendment. The Court dismissed all other counts by order dated June 20, 2001.

Harley argues that he is entitled to summary judgment based on collateral **estoppel**, the rule of Heck v. Humphrey, and qualified immunity.

Federal courts are required to give preclusive effect to state court judgments whenever the courts of the state from which the judgments emerged would do so. See Haring v. Prosise, 462 U.S. 306, 313 (1983) (citing Allen v. McCurry, 449 U.S. 90, 96 (1980), and 28 U.S.C. § 1738).

Under Pennsylvania law, a criminal conviction collaterally estops a defendant from denying his acts in a subsequent civil trial. Shaffer v. Smith, 673 A.2d 872, 874 (Pa. 1996) (citations omitted). In Pennsylvania, a guilty plea also constitutes an admission to all of the facts averred in the indictment. See Linnen v. Armainis, 991 F.2d 1102, 1005 (3d Cir. 1993) (citing Commonwealth Dep't of Transp. v. Mitchell, 535 A.2d 581, 585 (1987), and Commonwealth v. Anthony, 475 A.2d 1303, 1307 (1984)). Summary judgment may be granted in a civil proceeding based on a guilty **plea** if the operative facts are identical to those that would be litigated in the civil case. Linnen, 991 F.2d at 1105 (citations omitted).<sup>1</sup>

In this case, Ramsey's conviction stemmed from his pleading guilty to recklessly endangering Harley. Under Pennsylvania law, reckless endangerment occurs when: "[a]

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<sup>1</sup> Ramsey has made no argument as to the integrity of the plea proceeding, in which he pleaded guilty to recklessly endangering Harley. See Guilty Plea Colloquy, Def.'s Summ. J. Br., Ex. 3, at 87. The court accepted the plea as being knowing, intelligent, and voluntary. See id. at 97-98.

person...recklessly engages in conduct which places or may place another person in danger of death or serious injury." 18 Pa.C.S. § 2705. Harley argues that Ramsey's conviction for reckless endangerment of Harley prevents a judgment in Ramsey's favor on the excessive force claim, because the use of even deadly force is permitted in an arrest where "the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm...." Tennessee v. Garner, 471 U.S. 1, 11-12 (1985).

The Court finds that the operative facts underlying the guilty plea are identical to those that would be litigated in this civil proceeding. The factual basis of the plea was as set forth in two affidavits of probable cause. See Guilty Plea Colloquy, Def.'s Summ. J. Br., Ex. 3, at 97. One of the affidavits has been incorporated into the record in this case. There, James Tarasca states that Harley and Detective Kropp, of the Pottstown Police Department, were following Ramsey in their cars. Ramsey had been identified as a co-conspirator in an ongoing illegal drug investigation. Harley passed Ramsey on the roadway, intending to make a traffic stop. Harley stopped his car in front of Ramsey's, which had also stopped. Harley exited the car and approached Ramsey's vehicle. Detective Kropp pulled

in behind Ramsey. Ramsey drove **in** reverse, striking Detective Kropp's car, and then "drove forward, directly at Trooper Harley." See Aff. of Probable Cause, Def.'s Summ. Judg. Br., Ex. 3, at 110. At that point, "Trooper Harley fired one round from his service pistol at Ramsey." Id. "Trooper Harley **was narrowly** missed **by** Ramsey's vehicle." Id.

These facts comport with those alleged in the present complaint. There, Ramsey alleges that Harley forced him off the road to conduct a traffic stop, and that Harley "jumped out" of his vehicle with his gun drawn. See Complaint ¶¶ 13-14. Ramsey alleges that he thereafter placed the vehicle in reverse, and then attempted to drive away. Id. at ¶¶ 15-16. When Ramsey was trying to drive away, Harley allegedly fired his weapon at Ramsey. Id. at ¶ 16. Ramsey alleges that this "use of a weapon was unnecessary and excessive." Id. at ¶ 21.

These facts also align with those adduced during discovery in this case. In Ramsey's deposition, he stated that Harley "swerved" in front of him to cause him to stop. Ramsey Dep., Def.'s Summ. J. Br., Ex. 2, at 13. Ramsey also stated that Harley ran towards him with his gun, and that Ramsey put his car in reverse, backing into Kropp. Id. at 22. Ramsey hit Kropp's car "pretty hard," because Ramsey was "speeding up out of there pretty fast." Id. Then Ramsey put his car into **first gear**, and

tried to "go around" Harley. Id. at 23. After Ramsey had placed his car into first gear and was driving forward, Harley began shooting. As he shot, Harley was "real close" to Ramsey, close enough to reach his hand out and touch Ramsey's vehicle. Id. at 25, 30. Ramsey was driving fast. Id. at 46.

The only other exchange Ramsey had with Harley was later that night at the police station. There, Ramsey apologized to Harley, stating "I didn't know you were an officer." Id. at a4.

Accordingly, the highway incident constituted all of Harley's dealing with Ramsey involving the use of force. Because Ramsey's guilty plea operates as an admission that he placed Harley in danger of death or serious bodily injury, Harley was empowered to use up to deadly force under Tennessee v. Garner. Thus, Ramsey is estopped from making any argument that the force Harley exerted was excessive.

For similar reasons, summary judgment is also proper under Heck v. Humphrey, 512 U.S. 477 (1994). In Heck, the Supreme Court held that 1983 actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments. Accordingly, a 1983 suit in which judgment for the plaintiff would necessarily imply the invalidity of a conviction must be dismissed unless the conviction has already been invalidated.

Id. at 486-87.

Here, the plaintiff **has** conceded in deposition testimony that his conviction has not been overturned. See Dep. at 70. But **comparing the elements of** his criminal conviction and his **claim** against **Harley**, one can only conclude **that a** judgment in **Ramsey's** favor would **call** into doubt his conviction. Insofar as Tennessee v. Garner authorized Harley to use deadly force, as described above, **Harley's** force could not have been excessive. Cf. Hainze v. Richards, 207 F.3d 795 (5th Cir. 2000) (plaintiff convicted of aggravated **assault** could not bring 1983 suit for excessive force where Texas **law** allowed **police to use** force up to and including deadly force to protect themselves **against unlawful deadly force**); Sappington v. Bartee, 195 F.3d 234 (5th Cir. 1999) (same).

Because the Court grants summary judgment on these two grounds, it need not address the defendant's argument regarding qualified immunity.

BY THE COURT:

  
Mary A. McLaughlin J.

2/3/8/02 to:

Beth Anne Smith, Cog.

Theodore G. Thompson, Cog.